

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ROBERT S. SMITH, JR.,

Petitioner,

-v-

**WARDEN, Chillicothe Correctional
Institution¹**

Respondent.

Case No. C-3:09-cv-097

**Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington**

**ENTRY AND ORDER OVERRULING SMITH’S OBJECTIONS (Doc. #11)
TO THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATIONS (Doc. #9); ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATIONS (Doc. #9) IN ITS
ENTIRETY; DENYING ANY REQUESTED CERTIFICATE OF
APPEALABILITY; AND TERMINATING THIS CASE**

This matter comes before the Court pursuant to pro se Petitioner Robert S. Smith, Jr’s (“Smith’s”) Objections (doc. #11) to Magistrate Judge Sharon L. Ovington’s Report and Recommendations (doc. #9). The Report and Recommendations recommends that Smith’s Petition for a Writ of Habeas Corpus be denied and that a Certificate of Appealability not issue.

The time has run and the Warden has not responded to Smith’s Objections. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Smith’s Objections to the Magistrate Judge’s Report and Recommendations are not

¹As set forth in the Report and Recommendations, Smith’s present incarceration in the Southern Ohio Correctional Facility means that SOCF Warden Donald Morgan is the proper Respondent. However, the Case Caption remains the same to maintain docketing continuity.

well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Smith's Petition is dismissed because none of the three (3) grounds for relief that he has presented have merit and because his Second Ground for Relief is procedurally barred. Further, Smith is denied any requested certificate of appealability. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Sixth Day of February, 2012.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Robert S. Smith, Jr. at his last address of record